



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,112	10/19/2001	Jeffrey A. Gariepy	Q01-1037	2878

7590 01/12/2005

Robert A Saltzberg
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT	PAPER NUMBER
----------	--------------

2652

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,112

Applicant(s)

GARIEPY ET AL.

Examiner

William J. Klimowicz

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38, 47, 51-56, 58-61, 63, 65-68, 72-84 and 93-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38, 47, 51-56, 58-61, 63, 65-68, 72-84 and 93-103 is/are allowed.
- 6) ☒ Claim(s) 104-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims Status

Applicants have voluntarily canceled claims 1-37, 39-46, 48-50, 57, 62, 64, 69-71 and 85-92.

Claims 38, 47, 51-56, 58-61, 63, 65-68, 72-84 and 93-106 are currently pending.

Claim Objections

Claims 53, 66, 78 and 82 are objected to because of the following informalities and appropriate correction is required.

With regard to claim 78 (line 2) and claim 82 (line 2), the word “assembly” should be deleted in order to remain consistent with the amended preceding claim language.

The following phrase(s) lack clear antecedent basis within the claim(s), i.e., either the particularly recited passage fails to be properly introduced prior to its appearance at that point in the claim or the structure recited in the passage is not an inherent part of or component of the previously recited structure. The lack of antecedence as noted *infra*, is merely formal, since the claims can be understood in light of the instant specification and drawings; the antecedence informalities delineated below do not rise to the level of a rejection under 35 USC 112 2nd paragraph:

- (I) Claim 55 (line 3), “the tape receivers.”
- (II) Claim 66 (line 2), “the tape receivers.”
- (III) Claim 82 (line 1-2), “the mover.”

(IV) Claim 82 (line 2-3), "the third axis."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 104-106 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostwald (US 5,418,664).

As per claim 104, Ostwald (US 5,418,664) discloses a method for moving a first cartridge (102) and a second cartridge (another 102 - see FIG. 3) between a storage rack and a tape drive (e.g., see, *inter alia*, COL. 5, lines 6-14), the method comprising the steps of: moving a transporter (e.g., 100) to a first position relative to the storage rack (to access one of the cartridges 102 from the library subsystem); gripping a first cartridge (102) with a first gripper (e.g., 401), moving the first gripper (401) relative to the transporter (100) to move the first cartridge (102) between the storage rack (of the unshown library subsystem) and the transporter (100); gripping a second cartridge (another 102 - see FIG. 3) with the first gripper (401), and moving the first gripper (401) relative to the transporter (100) to move the second cartridge (another 102 - see FIG. 3) between the storage rack (of the unshown library subsystem) and the transporter (100) while the transporter (100) remains in the first position. The first cartridge (102) is withdrawn into hand (100) and then vertical movement of tray (1033) is performed to allow an unoccupied position within tray (103) to move to a plane of gripper (401) to allow the

Art Unit: 2652

gripper to withdraw another cartridge within the hand (100). Thus movement of the first cartridge via the vertically moving tray (103) can be accomplished without moving the hand (100). See, *inter alia*, COL. 5, lines 15-29 and as described in detail throughout the patent.

As per claim 105, wherein the step of moving the second cartridge (another 102 - see FIG. 3) occurs while the first cartridge (102) is positioned in the transporter (100). See FIGS. 1 and 2, *inter alia*, COL. 5, lines 15-29 and as described in detail throughout the patent.

Additionally, as per claim 106, Ostwald (US 5,418,664) discloses a method for moving a first cartridge (102) between a storage rack and a tape drive (of the unshown library subsystem - see also *inter alia*, COL. 5, lines 6-14), the method comprising the steps of: providing a transporter (100) that is movable relative to the storage rack, the transporter (100) having a first transport receiver (e.g., 109A) that receives the first cartridge (102) and a second transporter receiver (109B); moving the first cartridge (102) into the transporter (100) along a first axis (axis of movement into the hand (100)) with a gripper assembly (401), and moving the first cartridge (102) relative to the transporter (100) along a second axis (vertical) that is angled relative to the first axis (via the vertically movable tray (103)).

Allowable Subject Matter

Claims 38, 47, 51-56, 58-61, 63, 65-68, 72-84 and 93-103 are currently allowed.

Response to Arguments

Applicants' arguments with respect to newly presented claims 104-106 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

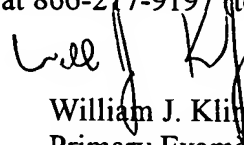
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William J. Klimowicz
Primary Examiner
Art Unit 2652

WJK